# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/895,557 | 06/29/2001 | Andrew V. Anderson | 42390.P9765X | 6490 |

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| EXAMINER |
|---|
| CHANKONG, DOHM |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2152 | |

DATE MAILED: 05/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on <u>27 February 2006</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-33 and 36-39* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-33 and 36-39* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

## DETAILED ACTION

1>    This action is in response to Applicant's request for continued examination, filed

2.27.2006. Claims 1, 11, 21, 27 and 31 are amended. Claims 1-33 and 36-39 are presented for

further examination.


2>    This is a non-final rejection.


### Continued Examination Under 37 CFR 1.114

3>    A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection.  Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant

to 37 CFR 1.114.  Applicant's submission filed on 2.27.2006 has been entered.


### Response to Arguments

4>    Applicant's arguments filed 2.27.2006 have been fully considered but they are not

persuasive. Additionally, Applicant's amendment do not overcome the Horvitz reference.

Applicant argues in substance: (A) Horvitz does not disclose an event detector and an agent

selector as part of an assistant; (B) Horvitz does not disclose handling an event without

contacting a user; and (C) Horvitz does not disclose an agent selector weighing a level of

importance against an intrusion to the user if the assistant handles the event itself, wherein

the intrusion to the user is determined by rules specified by the user. Applicant's arguments

are unpersuasive.

A.   Horvitz discloses the functionality as claimed of an event detector and an
     agent selector

According to Applicant's claim, the event detector is part of a digital assistant,

the detector receiving information of an event from a provider and determining a

level of importance of the event relative to a user. While Horvitz may not disclose the

exact terms "event detector", Horvitz clearly discloses a digital assistant with the

disclosed functionality.

Horvitz discloses a digital assistant that is responsible for receiving

information of an event and determining the level of importance of the event relative

to a user [Figure 1 | 0008]. Information of an event, such as an email message, may

include rules defined by a user that prioritize the event according to user-defined

metrics [Figure 1 «item 30» | Figures 23-25]. Thus, Horvitz's messaging system (akin

to Applicant's claimed digital assistant) has the same functionality as the described

event detector. The message controls element of Horvitz's system [see Figure 1 «item

80»] performs the aforementioned functionality.

Applicant's agent selector weighs the level of importance against a user-

defined metric and decides on an appropriate action. With regard to this

functionality, Horvitz's messaging system describes a means of weighing the priority

of an event, such as email, against a user-defined metric of whether or not to receive

that priority-level event [Figures 24-25 | 0012 : "do not disturb settings"]. Horvitz's

messaging system has a component that performs this functionality [Figure 4].

Thus, Horvitz clearly discloses the functionality of both an event detector and

an agent selector. Applicant broadly asserts that Horvitz does not disclose an event

detector or an agent selector, but fails to discuss the cited sections (from the previous

Office action) of Horvitz that seemingly disclose the same functionality as claimed of

these elements.


B.      Horvitz discloses handling an event without contacting a user

Applicant argues that Horvitz's queuing of messages (without contacting a

user) is not the same as handling an event without contacting a user. Applicant

considers the functionality merely a delay tactic. Applicant asserts that there is no

disclosure of an assistant handling an event itself.

Horvitz discloses a component to his messaging system whereby the

component may decide, based on the priority of the message, to reply to a sender of

email message or to simply forward the message [Figure 42 | 0275, 0276]. Thus,

Horvitz's messaging system "handles" the email message by submitting a response to

the sender, instead of forwarding the email to the user [Figure 42 : as illustrated by the

diverging arrows from the routing system].

Additionally, it should be noted that Applicant does not define the term

"handling" within the claim language. As such, the Office may take the broadest

reasonable interpretation of the term, consistent with the specification. Applicant's

specification discusses various events, such as receipt of email messages and

determining whether or not to notify users of the received message.

In regards to Horvitz's queuing functionality, which Applicant asserts is

merely a delay tactic, a reasonable interpretation is that Horvitz's queuing of the

message corresponds to the "handling" of the event. Applicant's arguments presume

that "handling" of an email message must be a reply to the message by the user.

However, as discussed, Applicant's claims and specification do not mandate such an

interpretation.

As such, one of ordinary skill in the art could have reasonably interpreted

Horvitz's queuing of the message functionality as corresponding to the claimed

"handling without notifying a user" functionality. Because of the priority of the

message, the user has not been contacted, and the message has been "handled" by

being placed in the queue.


C.      <u>Horvitz does not disclose an agent selector weighing a level of importance
        against an intrusion to the user if the assistant handles the event itself,
        wherein the intrusion to the user is determined by rules specified by the user</u>

Horvitz discloses that a user may specify rules that weigh the priority

of an event against user-defined rules that determine an intrusion, if the assistant

handles the event by itself [Figures 24-25 | 0275, 0276]. The user clearly can define

certain "do-not-disturb" settings, as well as other various intrusion-type settings such

as vacation or home, within a profile such that the system can decide, based on the

settings established in the user's profile, an appropriate course of action based on the

priority of the event [0012, 0073]. That is, the user may define when a priority (level

of importance) of a message is to be weighed against when the message should be

forwarded directly to him, via a second means (intrusion). If the priority of the

message is low, then the messaging system may "handle" the event by replying to the

sender. Otherwise, if the priority is high, then the message may be forwarded to the

user.


D.      Conclusion

For the foregoing reasons, Applicant's arguments are not persuasive. The rejection of

the claims under Horvitz, set forth in the previous Office action, are maintained.


*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form

the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.


5>      The text of those sections of Title 35, U.S. Code not included in this action can be

found in a prior Office action.

6>      Claims 1, 3-6, 10, 11, 13-16, 20-25, 27-29, 31-32, 36 and 38 are rejected under 35 U.S.C §

102(e) as being anticipated by Horvitz et al, U.S Patent Publication No. 2003|0046421

["Horvitz"].


### Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.


7>      The text of those sections of Title 35, U.S. Code not included in this action can be

found in a prior Office action.


8>      Claims 2, 12, 37 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Horvitz, in view of what was well known in the art.


9>      Claims 7, 17, 26 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Horvitz, in view of Fisher et al (US. 5,835,896).


10>     Claims 8-9, 18-19 and 33 are rejected under 35 U.S.C § 103(a) as being unpatentable over
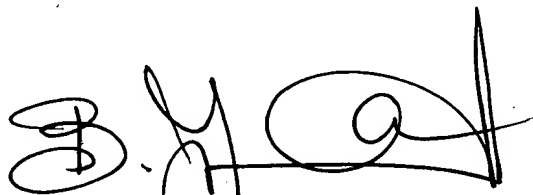
Horvitz.

## *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is 571.272.3942. The examiner can normally be reached on Monday-Thursday [7:30 AM to 4:30 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571.272.3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DC

**BUNJOB JAROENCHONWANIT**
**SUPERVISORY PATENT EXAMINER**